

DATE: 5/16/2011 11:01:41 PM

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ MAY 20 2011 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**BROOKLYN OFFICE**

UNITED STATES OF AMERICA,  
Plaintiff,

vs. DOCKET No: 07-CR-707 (ARR)

ROMAN VEGA  
Defendant.

MOTION TO RESCHEDULE MAY 19, 2011 STATUS CONFERENCE HEARING  
DUE TO INJURY, PAIN and SUFFERING and DELIBERATE INDIFFERENCE

COMES NOW THE DEFENDANT, Roman Vega, appearing pro-se, and in support of his motion to reschedule the May 19, 2011 status conference hearing hereby states as follows:

1. The defendant is in intense pain in his jaw and head due to the Federal Bureau of Prisons deliberate indifference to the defendant's health/dental issues.
2. When trying to chew, the pain in the defendant's jaw and mouth is so intense as to cause tears, so the defendant cannot think or function in a normal fashion.
3. The defendant maintains that the court has acted with deliberate disregard to the suffering of the defendant, as the defendant has notified the court of the dental suffering and the court has done nothing. [Exhibit A: MOTION FOR EMERGENT DENTAL CARE BY PRE-TRIAL U.S. MARSHALS PRISONER (dated 3/27/11)]. [Exhibit A is only on court copy due to inability to duplicate.]
4. The court is well aware that the court cannot accept a plea of guilty from a person who is incapacitated. The defendant has been taking borrowed pain medication since the suffering began. At the time the plea was entered the defendant *suffered from severe debilitating pain*, coupled with inability [at the time] to fully understand English, renders the plea *unknowing and involuntary*, in violation of the Due Process clause, of the Fifth Amendment to the United States Constitution. The court accepted plea that was induced by deliberate disregard to the defendants suffering, lasting years of the pre-trial incarceration, amounting to a plea while undergoing treatment bordering with deliberate torture, in violation of the "Cruel and Unusual Punishment" (emphasis added) provision of the Eight Amendment to the United States Constitution.
5. The defendant can no longer participate in any proceedings until the dental issue is addressed as he cannot concentrate due to the pain and inability to chew properly.
6. The defendant has in his possession numerous documents regarding these health/dental problems wherein the defendant requested treatment from the Federal Bureau of Prisons on August 29, 2007 [Exhibit B]; August 30, 2007 [Exhibit C]; September 3, 2007 [Exhibit D]; April 7, 2009; May 7, 2009; November 7, 2010. The defendant has a letter dated September 17, 2007, from the Federal Public Defender Elizabeth Falk (Northern California FD) to Michael McCloud, Supervising United States Marshal requesting treatment [Exhibit E]. The Marshals did nothing. It should be noted the defendant is a pre-trial inmate (and pre-plea) at the time and the B.O.P., Marshals and the court turned a deaf ear to the problems.

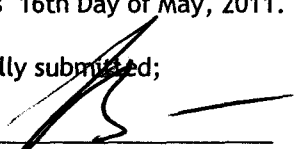
7. \* The defendant has attached two missing, no more functional teeth bridges to the court copy of this motion as an Exhibit F. [Exhibit F is only on the court copy due to inability to duplicate the teeth bridges]. The defendant has disinfected the teeth with B.O.P. approved disinfectant, and sealed the teeth in a plastic envelope to prevent the transmission of any possible germs to any third party handling the teeth. [NOTICE: The teeth should be left in the container and not removed from same.]

8. The defendant respectfully prays the court reschedule the May 19, 2011 hearing to a date in the future which is "AFTER" the replacement with implants the defendant's missing teeth and reduction of the associated disabling pain.

WHEREFORE the defendant prays entry of an ORDER granting the relief requested herein.

Dated this 16th Day of May, 2011.

Respectfully submitted;

By:   
Roman W. Vega, Pro-se.  
Reg # 59198-004  
MDC Brooklyn  
P.O. Box 329002  
Brooklyn, N.Y. 11232

PROOF OF SERVICE

The undersigned hereby avers under the penalty of perjury that he caused to be mailed to those interested parties named infra a copy of the foregoing after having first affixed sufficient first class postage pre-paid and placing same in the Mail Box for legal mail in unit 4 North, Metropolitan Detention Center Brooklyn, pursuant to the Mail Box Rule.

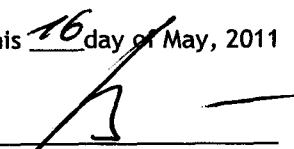
Clerk of The Court  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

Hon. Allyne Ross  
CHAMBERS  
United States District Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

William P. Campos, Esq.  
Assistant United States Attorney  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Matthew E. Fishbein, Esq.  
Attorney at Law  
Debevoise & Plimpton, LLP  
919 Third Avenue  
New York, NY 10022

Dated this 16 day of May, 2011

By:   
Roman Vega

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

Mr. R. Cespedes, P.A.

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. R. Cespedes, P.A.	DATE: August 29, 2007
FROM: Roman Vega	REGISTER NO.: 59198-004
WORK ASSIGNMENT: Law library clerk	UNIT: J2/FDC

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Dear Sir,

In addition to the earlier report which you completed after my return from court, yesterday 8-28-2007, regarding my passing out and consequent injuries - on the way to court with U.S. Marshals, I need to include into the mentioned report my concern about possible fracture to the left ORBITAL BONE.

OPHTHALMOLOGIST

So an evaluation by an optometrist would be necessary, I deem. At least that for a beginning. My left eye vision is blurry and I feel a pressure inside the eye socket.

Looking for your assistance in this matter.

Thank you,

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate  
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86  
and BP-S148.070 APR 94



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EXHIBIT B

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. R. Cespedes, Health Service	DATE: 08-30-2007
FROM: Roman Vega	REGISTER NO.: 59198-004
WORK ASSIGNMENT: Law library clerk	UNIT: J2-FDC

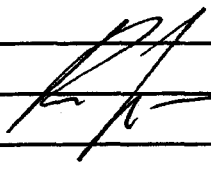
SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Dear Sir,

To follow up our conversations regarding the injury report you completed on 08-28-2007 I would be grateful if you could contact U.S. Marshal Office and let them know that I need MRI examination A.S.A.P. (actually they know about that, and I was told that they are ready to pick me up for that reason as soon as your department will contact them).

There is a very high possibility that I may have the serious brain or head internal bleeding or other injuries as a result of the impact described in details in the mentioned report, so MRI would be extremely necessary.

Thank you for your attention.



(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate  
(This form may be replicated via WP)

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EXHIBIT C

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. R. Cespedes, P.A., Health Service	DATE: September 3, 2007
FROM: Roman Vega	REGISTER NO.: 59198-004
WORK ASSIGNMENT: Law library clerk	UNIT: J2/FDC Dublin

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Dear Sir,

In addition to my two previous cop-outs on the matter (dated 08/29/07 & 08/30/07) regarding a necessity of the MRI & the overall head/eye examination of the injuries I have had as a result of the incident happened at 08/28/07, by this additional cop-out I have to inform you that the situation may be even worse that I thought before.

An elementary palpation reveals something that feels like a long disturbing fissure on the left side of my cranium. Together with a few abiding bothering symptoms this is definitely not a good sign.

I am insisting in the prompt and adequate hospital examination without any more delays and procrastination which could serve only to the further possible detriment of my health if not worse.

Thank you,

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
------------------------	------

Record Copy - File; Copy - Inmate  
 (This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86  
 and BP-S148.070 APR 94



EXHIBIT D

**FEDERAL PUBLIC DEFENDER**

NORTHERN DISTRICT OF CALIFORNIA  
19TH FLOOR FEDERAL BUILDING - BOX 36106  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO, CA 94102

**BARRY J. PORTMAN**  
Federal Public Defender

Telephone (415) 436-7700  
Fax (415) 436-7706

September 17, 2007

Via Hand Delivery

Mr. Michael McCloud  
Supervising United States Marshal  
United States Marshal Service  
for the Northern District of California  
450 Golden Gate Avenue, 20<sup>th</sup> Floor  
San Francisco, California 94102

Re: *United States v. Roman Vega*  
CR-04-101 CRB

Dear Mr. McCloud:

I write regarding Mr. Roman Vega. He recently suffered some head trauma en route to the Federal Building for court. The Marshal Service is aware that he had problems while here for Court on August 28, 2007. His requests to be seen by a doctor following this trauma have not yet been honored by Dublin FDC.

I write to ask your assistance in this matter. I am hopeful you can arrange to transport Mr. Vega to a doctor or a hospital so he can be seen by a specialist. Thank you in advance for your assistance. I can be reached at 415-436-7719.

Respectfully yours,

BARRY J. PORTMAN  
Federal Public Defender

*Elizabeth M. Falk*  
ELIZABETH M. FALK  
Assistant Federal Public Defender

EXHIBIT E

BP-A148.055

SEP 98

## INMATE REQUEST TO STAFF

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Medical Department: DENTIST	DATE: May 17, 2009
FROM: Roman Vega	REGISTER NO.: 59198-004
WORK ASSIGNMENT: n/a	UNIT: 3 South

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.

Sir.

Over a month ago, at April 7, 2009 I submitted a cop-out on same matter, but, unfortunately, I still don't have any answer from you; so this is my second request.

I have been in custody of B.O.P. from 2004, without possibility to <sup>access to</sup> decent dental care, so my two dental bridges have been loosened and failing out frequently. Which fact makes the chewing process next to impossible, and, consequently, it affects negatively on my health, as you understand.

Evidently, some bridges' adjustment would be extremely necessary, or even a drop of glue could save the situation without any laboured efforts.

I would be glad if you could do me a proper service on the matter, so far as I am still in the B.O.P. custody and don't have a choice with medical care, but B.O.P.'s.

(Do not write below this line)

Thanks,

P.S. I am saving a copy of this cop-out for further references.

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate  
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This form replaces BP-148.070 dated Oct 86  
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FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 6



BP-A148.055

SEP 98

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

REQUEST TO SERVE

TO: (Name and Title of Staff Member) Medical Department: DENTIST	DATE: 04/07/2009
FROM: Roman Vega	REGISTER NO.: 59198-004
WORK ASSIGNMENT: n/a	UNIT: 3 South

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Sir,

I would be grateful if you could fix a dental bridge, which has been loosened and falling out frequently, so some adjustment would be extremely necessary.

Thank you,

(Do not write below this line)

**DISPOSITION:**

Signature of Staff Member

Date

Hard Copy - File  
(This form may be replicated via WP)

This form replaces BP-148.070 Oct 86  
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 6